

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALEXIS RIVERA-CUEVAS,

Defendant.

**Criminal Number: 14-376 (PAD)
17-083 (PG)**

UNITED STATES' SENTENCING MEMORANDUM

TO THE HONORABLE COURT:

1. Defendant Alexis Rivera-Cuevas is scheduled for a final revocation hearing in 14-376 and a sentencing hearing in 17-083 before this Court on April 10, 2018. Defendant Rivera faces revocation because he committed another federal offense while on supervised release—that is, he possessed a firearm while he was a felon in violation of Title 18, United States Code, Section 922(g). *See* Criminal Case No: 17-083 (PG). Both cases are now before this Court for sentencing. The United States requests that the Court impose a term of imprisonment of 18 months for Defendant Rivera's supervised release violation *to be served consecutively* to a term of imprisonment of 46 months for his new criminal conduct.

4. The leniency of the original sentence that was imposed in Defendant Rivera's original case by this Court, the short period of time in which Defendant Rivera violated his supervised release, and the gravity of the new criminal conduct, all weigh in favor of an 18-month sentence for the supervised release violation and a 46-month sentence for the new felon-in-possession conviction.

5. In his original case, Defendant Rivera was charged with conspiring to possess with

the intent to distribute heroin and marihuana. By way of plea agreement, Defendant Rivera was afforded the opportunity to avoid the heroin charge, and plead guilty to the marihuana charge for at least 40 kilograms but less than 60 kilograms. **ECF No. 48** at 7. The Plea Agreement specified a Total Base Offense Level of 17, which exposed him to a sentence of 24-30 months because he had a Criminal History Category of I. **Crim No. 14-376 at ECF Nos. 67 and 73**. Although Defendant Rivera agreed that this was a reasonable sentence in his Plea Agreement, the Court generously sentenced him to even less—just 12 months and a day of imprisonment, to be followed by a one-year term of supervised release. **Crim No. 14-376 at ECF No. 111**.

6. On April 22, 2016, Defendant Rivera was released from custody and began his supervised release. **Crim No. 14-376 ECF No. 111**. However, on February 1, 2017, less than 10 months after being released from prison, Defendant Rivera was pulled over for illegally tinted windows, whereupon Police of Puerto Rico officers found a loaded Smith and Wesson pistol on the passenger seat of his vehicle. **ECF No. 1**.

7. In short, after being given a generous sentence for a drug offense, Defendant Rivera re-entered society and committed an even more serious offense by possessing an illegal firearm as a felon. Clearly, the Court's initial sentence did not deter Defendant Rivera who had no issue committing a new and more dangerous offense while on a short period of supervised release.

8. In light of this conduct and the underlying factual circumstances, the United States respectfully requests that the Court impose a term of imprisonment of 18 months for Defendant Rivera's supervised release violation *to be served consecutively* to a term of imprisonment of 46 months for his new criminal conduct.¹

¹ Pursuant to U.S.S.G. § 7B1.3(f), the term of imprisonment that this Court imposes for Defendant Rivera's supervised release violation "shall be ordered to be served consecutively to any sentence of imprisonment that the

WHEREFORE, the Government respectfully requests that the Court impose a sentence of 18 months for Defendant Rivera's supervised release violation *to be served consecutively* to a term of imprisonment of 46 months for his new criminal conduct.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 5th day of April, 2018.

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s/David T. Henek

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/David T. Henek
USDC No. G02607
Assistant United States Attorney

defendant is serving, whether or not the sentence of imprisonment being served resulted from the conduct that is the basis of the revocation of . . . supervised release.” (emphasis added).